

1 THE HONORABLE JOHN C. COUGHENOUR  
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7 UNITED STATES DISTRICT COURT  
8 WESTERN DISTRICT OF WASHINGTON  
9 AT SEATTLE

10 MELVIN D. KENT,

11 Petitioner,

v.

12 STATE OF WASHINGTON,

13 Respondent.

CASE NO. C20-0296-JCC

ORDER

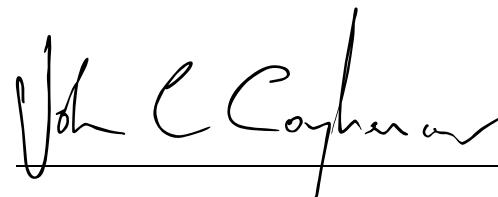
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15 This matter comes before the Court on Petitioner's objections (Dkt. No. 9) to the report  
16 and recommendation of the Honorable Michelle L. Peterson, United States Magistrate Judge  
17 (Dkt. No. 8). Petitioner seeks relief under 28 U.S.C. § 2254 from a 2006 judgment and sentence  
18 of the Snohomish County Superior Court. (*See* Dkt. No. 5-1 at 1.) Judge Peterson recommends  
19 that the Court dismiss Petitioner's *habeas* petition without prejudice because he has not  
20 exhausted his state court remedies. (Dkt. No. 8 at 2.) Petitioner concedes that he did not present  
21 his federal *habeas* claims to the state courts for review, but he argues that those claims were  
22 "vicariously" exhausted because a different individual, Scott Fischer, unsuccessfully appealed  
23 his conviction to the Washington Supreme Court. (*See* Dkt. No. 9 at 1.) However, one individual  
24 cannot vicariously exhaust another individual's *habeas* claims because *habeas* claims are  
25 personal to each individual. *See McKinney v. Ryan*, 730 F.3d 903, 912 (9th Cir. 2013).

26 Accordingly, the Court ORDERS as follows:

- 1     1. Petitioner's objections (Dkt. No. 9) are OVERRULED;
- 2     2. Judge Peterson's report and recommendation (Dkt. No. 8) is APPROVED and
- 3         ADOPTED;
- 4     3. Petitioner's *habeas* petition is DISMISSED without prejudice;
- 5     4. Petitioner is DENIED a certificate of appealability; and
- 6     5. The Clerk is DIRECTED to send copies of this order to Petitioner and to Judge Peterson.

7             DATED this 1st day of May 2020.



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9             John C. Coughenour  
10             UNITED STATES DISTRICT JUDGE  
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